MICHAEL RODAK,

IN THE

SUPREME COURT OF THE UNITED STATES

NOVEMBER TERM, 1973

No. 73-921

In the Matter of

NEAL L. GROSSMAN, Petitioner

-vs-

STATE BAR GRIEVANCE BOARD,
Respondent-Appellee

ON APPEAL FROM THE
MICHIGAN SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

NEAL L. GROSSMAN
Petitioner
566 Lahser Road
Birmingham, Michigan
48010

INDEX

	Page
JURISDICTIONAL STATEMENT	1
QUESTIONS PRESENTED FOR REVIEW ...	2
FACTS	4
CONCLUSION	7
RELIEF REQUESTED	8

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NOW COMES Neal L. Grossman, in pro per, and in Petition to this Honorable United States Supreme Court for issuance of a Writ of Certiorari, states to this Honorable Court as follows:

JURISDICTIONAL STATEMENT

1. Review is respectfully requested in the matter of Neal L. Grossman, a member of the State Bar of Michigan, Respondent (October 17,

1973) -- 211 N.W. 2d 21. [see page 89(a) of Petitioner's Appendix -- Exhibit "E" -- decision in the matter of Neal L. Grossman, a member of the State Bar of Michigan].

2. This is authorized by 28 U.S.C. Section 1651 (a) to issue the requested Writ of Certiorari since the relief sought is not available in any other court and cannot be had through any other appellate processes.

QUESTIONS PRESENTED FOR REVIEW:

I.

Can the Supreme Court of Michigan reprimand an attorney according to an ex post facto law or concerning standards of conduct in violation of Article I, Section 10, of the U.S. Constitution?

Petitioner, Neal L. Grossman, was charged with misconduct arising out of a situation occurring on January 30, 1971. The Michigan Supreme Court issued a reprimand according to a Code of Professional Responsibility which was not adopted until October 4, 1971 -- eight (8) months after the alleged incident had taken place.

Said Code of Professional Responsibility when adopted on October 4, 1971 was given immediate effect; but not retroactive effect.

Petitioner holds, therefore, that said Michigan Supreme Court decision should be reversed on the grounds that it violates Article I, Section 10, ex post facto of the U. S. Constitution; also, said decision was in violation of Article I, Section 10 "ex post facto laws" of the 1963 Michigan Constitution.

II.

Can the Michigan Supreme Court reprimand an attorney according to an ex post facto law or standard in the matter of "In re Grossman" when it ruled contrary to this application in State Bar Grievance Administrator v. Freid 388 Mich. 711 202 N.W. 692 (1972) cited with approval in State Bar Grievance Administrator v. Jackson (October 17, 1973) 211 N.W. 2d 138, 41, to wit:

> "It is a fundamental rule of due process that a person must have notice of the charges against him. Particularly is this true in a proceeding where a person is being challenged as to his right to continue to pursue his professional life. This notice is provided by the filing of the complaint".

III.

Whether the Michigan Supreme Court has jurisdiction to reprimand an attorney acting for himself as a private citizen, and not in the capacity of an attorney, for oral statements made to the police -- when he was attempting to report a Larceny by Conversion of his automobile -- and when such conduct is privileged, and any and all such statements to the police under said circumstances are immune under Michigan Law? Simpson v. Burton [October 2, 1950] 328 Mich. 557, 44 N.W. 2d 178-180 (see page 105(a) in Appendix to Petition for Writ of Certiorari -- pg 105(a) - 115(a). [see Appendix page 98; T. G. Kavanagh, MINORITY opinion for Reversal].

IV.

Can the State Bar of Michigan restrict an attorney's First Amendment Rights under the Michigan and U.S. Constitution? [see Appendix to Petition for Certiorari, page 69(a) citing United Transport Union v. State Bar of Michigan (April 5, 1971) 91 S. Ct. 1076, 1078 citing NAACP v. Button 271 U.S. at 438, 544, 83 S. Ct. at 340].

FACTS

Petitioner, Neal L. Grossman, is an attorney who on January 30, 1971, contacted the Novi (Mich.) police in an effort to gain assistance in the recovery of his personal automobile which return was refused that same day by an unlicensed garagekeeper who had no right to enforce a lien of any kind under Michigan Law (MCLA 570.303, MCLA 570.301).

On July 2, 1971, the State Bar Grievance Administrator filed a formal complaint based upon the erroneous assumption that the holder of the automobile had some type of right to lien against the Petitioner herein, Neal L. Grossman, the true owner.

On September 28, 1971, hearing began, and when it was shown that the holder of the car was a converter as a matter of law, and in fact Petitioner was the victim of a Larceny by Conversion or Larceny by Bailee the counsel for the Grievance Administrator and the Hearing Panel refused to dismiss the complaint or admit the basic error in the charge.

It was contended that because Petitioner in an attempt to mitigate the circumstances by

mentioning to police that said conversion might be a prank, he was guilty of filing a false police report. The facts were, however, that no police report was filed by Petitioner, and although the police did investigate the garage where the car was held, they did not effect a recovery. They told Petitioner that he should make out a stolen car report -- which he refused to do. Later that evening Petitioner also made an oral report to the Southfield (Michigan) police to the effect that his car was being held through a larceny by conversion. That was Petitioner's total contact with both the Novi and Southfield police departments. He later recovered his automobile through a Writ of Replevin.

The Petitioner's position is that his conduct and any statements made to the police were privileged, immuned and inadmissible as evidence, since he was acting in good faith by reporting a crime to the police of which in fact he was the victim.

On October 17, 1973, the Michigan Supreme Court rendered its decision primarily based upon "The Code of Professional Responsibility" adopted by this Court October 4, 1971 [385 Mich. 1 vi (1971)] and given immediate effect: DR 1-102.

"DR 1-102 Misconduct.

"(A) A lawyer shall not:

* * *

"(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

* * *"

Also relying upon Rule 15, of the State Bar of Michigan:

> (4) "Conduct that violates the standards or rules of ethics or professional responsibility adopted from time to time by the Supreme Court of this State."

Petitioner, in his Petition for Certiorari, points the basic errors in this decision:

FIRST, The Michigan Supreme Court violated Article I, Section 10, and the Fourteenth Amendment, of the U.S. Constitution in applying an after-the-fact standard, which is in violation of Petitioner's rights to "due process" and "equal protection" under the Fourteenth Amendment and contrary to its own holdings in State Bar Grievance Administrator v. Jackson (October 17, 1973) 211 N.W. 2d 138, 41 citing with approval both State Bar Grievance Administrator v. Freid 338 Mich. 711, 202 N.W. 2d 692 (1972):

> "It is a fundamental rule of due process that a person must have notice of the charges against him. Particularly is this true in a proceeding where a person is being challenged as to his right to continue to pursue his professional life. This notice is provided by the filing of the complaint".

and In re Ruffalo (390 U.S. 544, 88 S. Ct. 1222, 20 L. Ed. 2d 117 (1968) -- page 42:

> "An attorney may only be found guilty of misconduct as charged in the complaint . . ."

The holding in Grossman also violates Article I, Section 10, of the 1963 Michigan Constitution providing Declaration of Rights:

> "No bill of attainder, or ex post facto law shall be enacted".

SECONDLY, Petitioner states that the finding of misconduct, for mere oral reporting of a crime when in fact Petitioner was a victim of a Larceny by Conversion, is a denial of Equal Protection of the Laws of the State of Michigan, which give such statements to police absolute immunity, and amounts to invidious discrimination against attorneys' rights, privileges and immunities and contrary to the mandate of the Fourteenth Amendment to the U. S. Constitution.

CONCLUSION

Petitioner, Neal L. Grossman, in summary, states that the State of Michigan action involved was based upon an "after-the-fact" standard and nonexistent Code of Professional Responsibility which violates the most fundamental principle of due process, equal protection and justice required by the Fourteenth Amendment to the U. S. Constitution.

In addition, the other issues brought before this Honorable Supreme Court of the United States for review and adjudication are deemed to be important subsidiary questions.

RELIEF REQUESTED

WHEREFORE, Petitioner, Neal L. Grossman, prays that his Petition for Writ of Certiorari be granted because it involves the substantial Federal question whether attorneys are entitled to equal protection of the laws and whether their reputation may be taken, violated and/or deprived without due process of law?

Respectfully submitted,

/s/ Neal L. Grossman
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DATED:
November 20, 1973